



**STATE OF CONNECTICUT
JUDICIAL BRANCH**

**Testimony of Judge Lynda B. Munro
Chief Administrative Judge for Family Matters**

**Select Committee on Children Public Hearing
February 22, 2011**

House Bill 5815, An Act Concerning Divorce Mediation

Thank you for the opportunity to submit written testimony in opposition to **House Bill 5815, *An Act Concerning Divorce Mediation***. The bill would require parents of minor children who file for divorce to participate in mandatory mediation before the action can move forward. If passed, it would have numerous unintended consequences that could in fact be very damaging for families and children.

Currently, mediation services are provided in **appropriate** child custody cases by the Judicial Branch's Family Services unit. An essential element in determining whether mediation is appropriate is assessing whether it will do more harm than good -- that is why we carefully screen our cases to identify those that are amenable to mediation. While it would be ideal if all matters could be resolved harmoniously, the simple fact is that forced mediation does not take into account the myriad factors that make cases inappropriate for mediation.

Simply put, mediation is not for every family. Certain entrenched high conflict cases and cases involving domestic violence are two instances where mediation is not appropriate. In the former, it will prolong the case, delaying permanency and continue conflict exposure, both lethal for the child. In the latter, forced mediation has the potential to re-victimize the adult victim and ignore potentially explosive safety and intimidation issues.

One must also always be mindful that family cases often present an insidious element of power and control between the parties. Mediation can be manipulated by

the “powerful” party resulting in a parenting and child custody plan that is not in the child’s best interest.

Mediation is also ineffective in other cases where a more evaluative approach is necessary; these cases are marked by underlying mental health issues, substance abuse addiction, and child neglect and abuse.

Another consequence of this bill is that it creates a two-tiered system of justice: it speaks only to married couples with children, as opposed to custody disputes between unmarried partners.

Finally, and just as important, the bill does not take into account that, in most cases, mediation is not necessary because families are capable of reaching a full and lasting agreement on their own, without court intervention. Imposing mediation on these families does not allow for self-determination and prolongs court involvement in instances where it is simply not warranted.

For these reasons, the Judicial Branch respectfully requests that the Committee take no action on the bill. If, however, the Committee is inclined to view this bill favorably, we respectfully request that it be referred to the Appropriations Committee for consideration of the additional resources that would be needed to implement its requirements. It would have a significant fiscal impact on the Branch. Requiring Family Services to conduct mediation services in all cases would dramatically increase the caseload of our Family Relations Counselors and necessitate additional staff to handle the volume of cases.

Thank you for the opportunity to submit written testimony.